APPALACHIAN MOUNTAIN ADVOCATES

Great Horned Owl © Estate of Roger Tory Peterson.

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February 25, 2016

C. L. Christian, III
President, Ohley Land Company
P.O. Box 638
Lynchburg, VA 24505

By Certified Mail - Return Receipt Requested

Re: 60-Day notice of Intent to File Citizens Suit Under Clean Water Act Section 505(a)(1) for Violations of Section 301 of that Act.

To C. L. Christian, III,

The Sierra Club, Ohio Valley Environmental Coalition, and West Virginia Highlands Conservancy, in accordance with section 505 of the Clean Water Act (the "Act" or the "CWA"), 33 U.S.C. § 1365, and 40 C.F.R. Part 135, hereby notify you that Ohley Land Company ("Ohley") has violated, and continues to violate, "an effluent standard or limitation" under Sections 301(a) and 505(a)(1)(A) of the Act, 33 U.S.C. §§ 1311(a), 1365(a)(1)(A), by discharging pollutants from at least two unpermitted point sources. Those point sources are located in Kanawha County, West Virginia, on property that was formerly subject to coal mining activities. If, within sixty days of the postmark of this letter, Ohley does not bring its discharges into full compliance with the Act, either by obtaining and complying with a WV/NPDES permit with appropriate effluent limitations or by ceasing the discharge of pollutants through treatment or otherwise, we intend to file a citizen suit seeking civil penalties for Ohley's ongoing violation and an injunction compelling Ohley to comply with the Act.

I. Factual Background

In 2012, the West Virginia Department of Environmental Protection ("WVDEP") performed water sampling, photography and laboratory analysis of surface water discharges in the Upper Kanawha Watershed. Two of the locations sampled in the Cane Fork subwatershed were identified by WVDEP as mine discharges. Neither of those two sites is located in an area covered by a current West Virginia Surface Coal Mining and Reclamation Act ("WVSCMRA") permit. Although the sites are in the vicinity of released WVSCMRA permits O015983, O016083, and U038700, the sources appear to be associated with mining activities that took place prior to the enactment of the federal Surface Mining Control and Reclamation Act, 30 U.S.C. § 1234 *et seq.*

According to public records, Ohley owns the real property containing the mine discharges. Each discharge originates from a discernible, confined and discrete conveyance, and is therefore a point source discharge under the Act. Neither of the point sources is covered by a WV/NPDES permit. Following is a description of each of the sites, as compiled from WVDEP field sheets, pictures, and lab reports.

Site 1: Mine Seep into Cane Fork (WVK-61-J-{0.2}-Seep)

Site 1 consists of a pipe emerging from the hillside discharging into a culvert. The culvert then discharges into Cane Fork of Cabin Creek of the Kanawha River. The pipe is discharging water containing aluminum, iron, low pH, conductivity, TDS, and sulfates into the culvert and then into Cane Fork. *See* Exhibit 1. A pipe and culvert are point sources as defined under the Act.

Site 2: Mine Seep into Cane Fork (WVK-61-J-{0.55}-Seep)

Site 2 consists of a pipe emerging from the hillside. The pipe is discharging iron, manganese, conductivity, TDS, and sulfates into Cane Fork of Cabin Creek of the Kanawha River. *See* Exhibit 2. A pipe is a point source as defined under the Act.

The coordinates, specific water chemistry, and dates of sampling for each location are contained in Exhibit 3 to this letter.

WVDEP has identified Cane Fork as impaired for aluminum, the biological condition, iron, and pH and has developed Total Maximum Daily Loads ("TMDLs") for those pollutants.

The sampling performed by WVDEP does not purport to specify all possible pollutants discharged from the sources. Therefore, it is likely that other pollutants are being discharged as well. The point sources are untreated and therefore discharges are likely to continue unabated.

II. Clean Water Act Violations

Section 301 of the CWA bans "any addition of any pollutant to navigable waters from any point source" without a permit. *West Virginia Highlands Conservancy v. Huffman*, 625 F.3d 159, 165 (4th Cir. 2010). This prohibition applies to post-mining discharges. Section 301(a) prohibits "the discharge of any pollutant by any person" without a permit under the Act. In the absence of an active operator, the landowner is responsible for obtaining a permit and complying with its provisions. *Webb v. Gorsuch*, 699 F.2d 157, 161 (4th Cir. 1983) ("post-mining discharges from a point source such as these mines are illegal in the absence of an NPDES permit, the conditions of which the owner of the property must meet").

The sources sampled by WVDEP, described above, are point sources as that term is used in the context of the CWA. 33 U.S.C. § 1362(14). The streams receiving the point source discharges are "navigable waters" under the Act. The above-described point sources discharged the identified pollutants into Cane Fork on the dates sampled by WVDEP and every time water flows from each point source. Without an active operator to control the discharges, Ohley is responsible for obtaining and complying with a WV/NPDES Permit for those sources. It has not

done so. As a result, Ohley is in violation of Section 301(a) of the CWA, 33 U.S.C. 1311(a), for discharging pollutants without a permit.

III. Conclusion

As described above, Ohley has discharged pollutants from at least two unpermitted point sources on its property into Cane Fork without a permit, and Cane Fork is a water of the United States. Consequently, Ohley has violated and is in violation of the CWA. If Ohley does not cease these violations, we intend to bring a citizen suit against it under Section 505 of the Clean Water Act seeking civil penalties and injunctive relief to enforce the permit requirement.

If Ohley does not advise us of any remedial steps during the 60-day period, we will assume that no such steps have been taken, that the violations described above are accurate and persist, and that violations are likely to continue. Additionally, we would be happy to meet with Ohley or its representatives to attempt to resolve these issues within the 60-day notice period. However, if violations are continuing at the time this letter ripens, we do not intend to delay filing suit.

Sincerely,

Amy Vernon-Jones
Joseph M. Lovett
Appalachian Mountain Advocates
P.O. Box 507
Lewisburg, WV 24901
(304) 645-9002
avernonjones@appalmad.org

Counsel for:

The Sierra Club
85 Second Street, 2d Floor
San Francisco, CA 94105-3441
(415) 977-5680

Ohio Valley Environmental Coalition
PO Box 6753
Huntington, WV 25773
(304) 522-0246

West Virginia Highlands Conservancy
P.O. Box 306
Charleston, WV 25321
(304) 924-5802

cc:
Via Certified Mail

Secretary Randy Huffman
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304

Regional Administrator Shawn M. Garvin
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103

Administrator Gina McCarthy
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

C. L. Christian, III
Notice of Process for Ohley Land Company
1000 Church Street
Lynchburg, VA 24504

Exhibit 1

General WQ Sampling Form

61487

— ☆ UMT or Source							Reviewers Initials		
Stream Name (with location)	~~Cane Fork #3 Seep~~ Mine Seep to Cane Fork								
AN-Code	WVK-61-J-(0.2)-Seep	Date	11/1/12	Time	1230	Geo	TB	Bio	
Basin	Upper Kanawha	County	~~TYLER~~ Kanawha	Quad	Eskdale.				
GPS Type		EPE		XY's Proofed		By			
Field Lat X-site	N 38°05'19.6"	N	Field Lon X-site	W 081°26'29.1"	W				
Corrected Lat		N	Corrected Lon		W				

Sampled	☑ Yes ☐ No	If not, why?	☐ No Access-Physical Barrier (☐ *Permanent* / ☐ *Temporary*) ☐ No Access-Landowner Denial (☐ *Verbal Denial* / ☐ *Posted* / ☐ *Fenced* / ☐ *Private*) ☐ Too Deep (☐ *Permanent-Not Wadeable* / ☐ *Temporary*) ☐ Dry ☐ Filled ☐ Impounded ☐ Other:

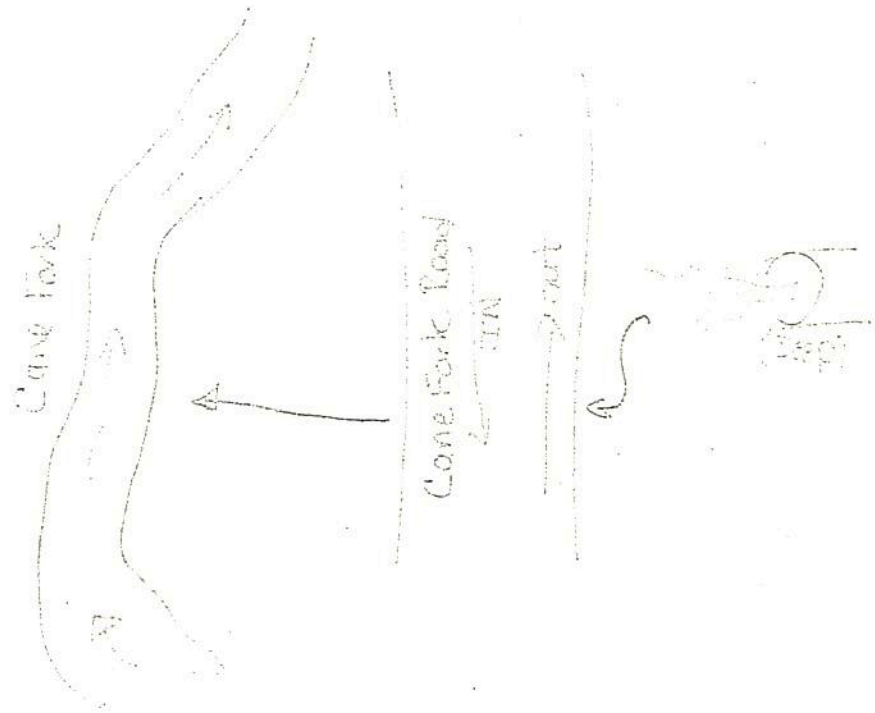
Sample Type: ☑ YSI ☐ Fecal ☑ AMD ☐ Nutrients ☐ Acid Rain ☐ Orthophosphate ☐ Flow ☐ Other:

Duplicate type: ☐ None ☐ Lab ☐ Fecal | Duplicate # | Was site moved? ☐ Yes ☐ No

Explanation?

Directions To Site: 77 south Sharon exit. (L) to cabin creek road into Eskdale (L) on to Cane Fork road. Seep is on your left after you pass the last house.

Sketch of Assessment Reach and Comments: Indicate North with (↑), indicate flow direction, indicate water sample (wq), indicate lat and long site with (X). Draw the sketch with a fine resolution to give a specific idea of the location of the sonde.



Notes		Single WQ Sample ID	61614

EXHIBIT 1

Reviewers Initials		FIELD WATER >>

WQ Sample Location	☐ Mid-Stream ☐ Bank (☐ Left ☐ Right) ☐ Thalweg (☐ Left ☐ Middle ☐ Right) ☐ Left Channel ☑ Right Channel ☐ Other:	WQ Type	☐ Single ☐ Profile ☐ Composite ☐ Other:
Sonde Method	☐ Grab ☐ Sample Tube ☐ Bucket	Lab Water Method	☑ Grab ☐ Sample Tube ☐ Bucket

Flag	Physicochemical Parameters (for a Single Water Quality Sample)		Seasonal Water Level		Water Odors		Surface "Oils"		Turbidity	
	13.64	Temperature °C		Below Normal		Normal	✓	None	✓	Clear
	5.40	pH (std. Units)	✓	Normal		Sewage (Not Septic)		Flecks		Slightly Turbid
	7.78	Dissolved Oxygen (mg/L)		Above Normal		Petroleum		Sheen		Moderately Turbid
	1,123	Conductivity (µmhos/cm)		Flooding		Chemical		Globs		Highly Turbid
Sonde I.D. #: Q			Notes:			Anaerobic (septic)		Slick	Water color: Lt Red	
If any problems occur with the Water Meter or any readings are suspect, record notes in the space to the right.						Other: Metal				
					Foam/Suds (Rate 0-4 or NR)	0				

ABOVE: Record readings in box for corresponding physicochemical parameter. Insert a √ in the box for other categories.

Precipitation Status and History

Current	drizzle	Past 24 Hours (If Known)	2 days after Hurricane Sandy	Major Rain Event in past week?	☑ Yes ☐ No

If it is raining or has rained recently, which of the following best describes the peak runoff (flush) condition of the stream at the site when water samples were collected? If the runoff condition is in response to snowmelt, please indicate as such above.

N/A		< 1 Hour		1 to 4 Hours		4 to 12 Hours		12 to 24 Hours	✓	1 to 2 Days		2 to 4 Days		4 to 7 Days		Unknown	

Is the stream level in the process of rising or falling at the time of visit? ☐ Baseflow ☑ Rising ☐ Falling

No Flow?: If a flow was scheduled for the site and not performed, then indicate if one of the following applies: ☐ Dry ☐ Low Flow ☐ Too Deep/Too Fast ☐ Instrument Failure ☐ Frozen/Ice ☐ Safety

Field Water Notes & Precipitation Comments:

Flow wasn't increased although it had been raining for the last 3 days.

EXHIBIT 1

General WQ Sampling Form

Le 2314

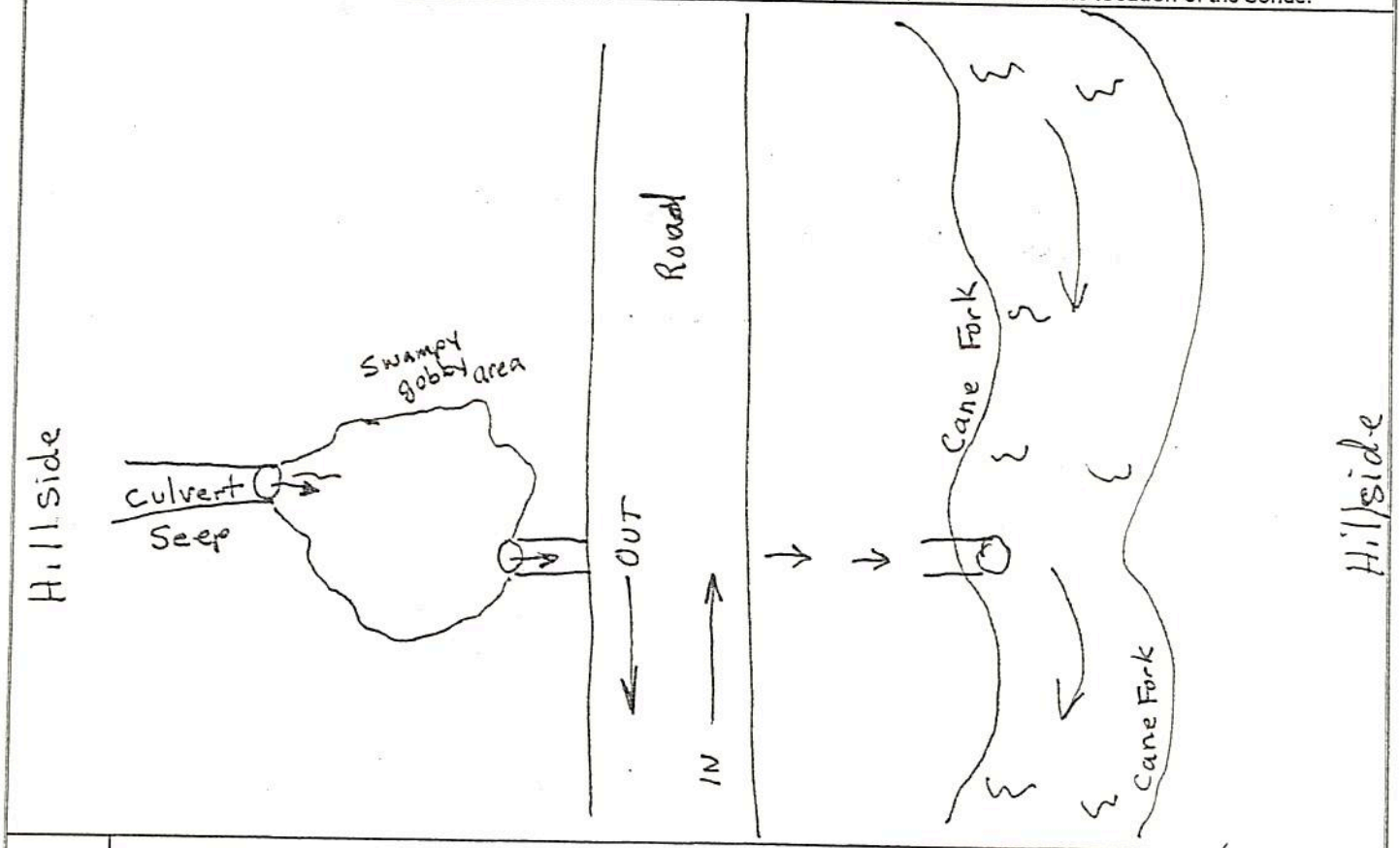
—						Reviewers Initials	CH			
Stream Name (with location)	Mine Seep to Cane Fork									
AN-Code	K-61-J-(0.2)-Seep	Date	11/30/12	Time	11:00	Geo	TB	Bio		
Basin	Upper Kanawha	County	Kanawha			Quad	Eskdale			
GPS Type	Previous	EPE				XY's Proofed		By		
Field Lat X-site	38 5 19.6 N			Field Lon X-site	81 26 29.1 W					
Corrected Lat	N			Corrected Lon	W					

Sampled	☑ Yes ☐ No	If not, why?	☐ No Access-Physical Barrier (☐ *Permanent* / ☐ *Temporary*) ☐ No Access-Landowner Denial (☐ *Verbal Denial* / ☐ *Posted* / ☐ *Fenced* / ☐ *Private*) ☐ Too Deep (☐ *Permanent-Not Wadeable* / ☐ *Temporary*) ☐ Dry ☐ Filled ☐ Impounded ☐ Other:

Sample Type	☑ YSI ☐ Fecal ☑ AMD ☐ Nutrients ☐ Acid Rain ☐ Orthophosphate ☐ Flow ☐ Other:				
Duplicate type	☐ None ☐ Lab ☐ Fecal	Duplicate #		Was site moved?	☐ Yes ☐ No
Explanation?					

Directions To Site: 77 South Sharon Exit. Left to Cabin Creek Rd into Eskdale Left onto Cane Fork Road Seep is on your left after you pass the last house.

Sketch of Assessment Reach and Comments: Indicate North with (↑), indicate flow direction, indicate water sample (wq), indicate lat and long site with (X). Draw the sketch with a fine resolution to give a specific idea of the location of the sonde.



Notes		Single WQ Sample ID	65692

EXHIBIT 1

Reviewers Initials		FIELD WATER >>>		
WQ Sample Location		☐ Mid-Stream ☐ Bank (☐ Left ☐ Right) ☐ Thalweg (☐ Left ☐ Middle ☐ Right) ☐ Left Channel ☐ Right Channel ☐ Other:	WQ Type	☐ Single ☐ Profile ☐ Composite ☐ Other:
Sonde Method		☐ Grab ☐ Sample Tube ☐ Bucket	Lab Water Method	☐ Grab ☐ Sample Tube ☐ Bucket

Flag	Physicochemical Parameters (for a Single Water Quality Sample)		Seasonal Water Level		Water Odors		Surface "Oils"		Turbidity	
	13.99	Temperature °C		Below Normal		Normal	✓	None		Clear
	5.38	pH (std. Units)	✓	Normal		Sewage (Not Septic)		Flecks	✓	Slightly Turbid
	7.92	Dissolved Oxygen (mg/L)		Above Normal		Petroleum		Sheen		Moderately Turbid
	1442	Conductivity (µmhos/cm)		Flooding		Chemical		Globs		Highly Turbid
Sonde I.D. #:________			Notes:			Anaerobic (septic)		Slick	Water color:	
If any problems occur with the Water Meter or any readings are suspect, record notes in the space to the right.					✓	Other: Metals				
					Foam/Suds (Rate 0-4 or NR)	0				

ABOVE: Record readings in box for corresponding physicochemical parameter. Insert a √ in the box for other categories.

Precipitation Status and History

Current		Past 24 Hours (If Known)		Major Rain Event in past week?	☐ Yes ☐ No
	No Rain.				

If it is raining or has rained recently, which of the following best describes the peak runoff (flush) condition of the stream at the site when water samples were collected? If the runoff condition is in response to snowmelt, please indicate as such above.

N/A		< 1 Hour		1 to 4 Hours		4 to 12 Hours		12 to 24 Hours		1 to 2 Days		2 to 4 Days	✓	4 to 7 Days		Unknown

Is the stream level in the process of rising or falling at the time of visit? ☐ Baseflow ☐ Rising ☐ Falling

No Flow?: If a flow was scheduled for the site and not performed, then indicate if one of the following applies: ☐ Dry ☐ Low Flow ☐ Too Deep/Too Fast ☐ Instrument Failure ☐ Frozen/Ice ☐ Safety

Field Water Notes & Precipitation Comments:

Bucket ≈26 sec 5 gallon Bucket

= 11.54 gpm

= 0.0257 cfs

EXHIBIT 1

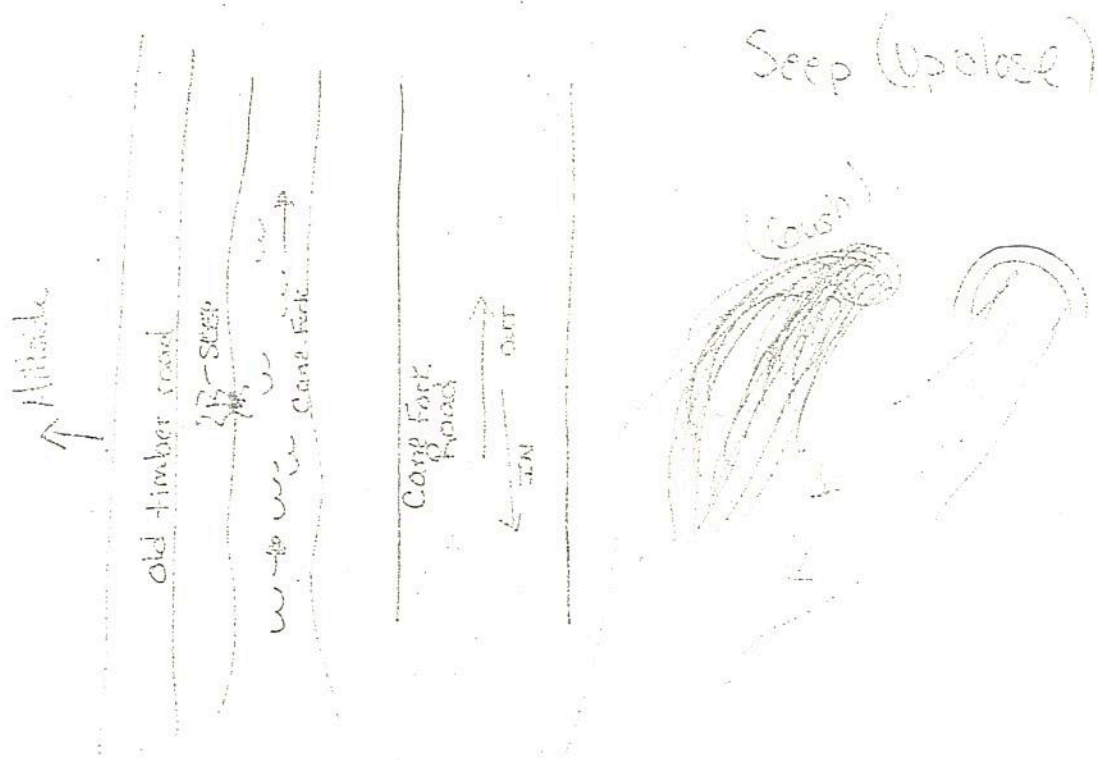
Exhibit 2

General WQ Sampling Form

Q1489 9

—	#UMT or Source				Reviewers Initials				
Stream Name (with location)	Cane Fork #1 Trib Seep Mine Seep to Cane Fork								
AN-Code	WVK-61-J-(0.55)-Seep	Date	11/1/12	Time	11:45 AM	Geo	TB	Bio	
Basin	Upper Kanawha	County	Kanawha	Quad	Eskdale				
GPS Type		EPE		XY's Proofed		By			
Field Lat X-site	N38°05'15.7"	N	Field Lon X-site	W081°26'11.5"	W				
Corrected Lat		N	Corrected Lon		W				
Sampled	☑ Yes ☐ No	If not, why?	☐ No Access-Physical Barrier (☐ *Permanent* / ☐ *Temporary*) ☐ No Access-Landowner Denial (☐ *Verbal Denial* / ☐ *Posted* / ☐ *Fenced* / ☐ *Private*) ☐ Too Deep (☐ *Permanent-Not Wadeable* / ☐ *Temporary*) ☐ Dry ☐ Filled ☐ Impounded ☐ Other:						
Sample Type	☑ YSI ☐ Fecal ☑ AMD ☐ Nutrients ☐ Acid Rain ☐ Orthophosphate ☐ Flow ☐ Other:								
Duplicate type	☐ None ☐ Lab ☐ Fecal	Duplicate #		Was site moved?	☐ Yes ☐ No				
Explanation?									
Directions To Site	77 South, Sharon Exit, Left onto Cabin Ck. Rd. to Eskdale. (L) to cane fork road. Seep is on your right BEFORE crossing the bridge/culvert.								

Sketch of Assessment Reach and Comments: Indicate North with (↑), indicate flow direction, indicate water sample (wq), indicate lat and long site with (X). Draw the sketch with a fine resolution to give a specific idea of the location of the sonde.



Notes		Single WQ Sample ID	61613

EXHIBIT 2

Reviewers Initials		FIELD WATER >>

WQ Sample Location	☐ Mid-Stream ☐ Bank (☑ Left ☐ Right) ☐ Thalweg (☐ Left ☐ Middle ☐ Right) ☐ Left Channel ☐ Right Channel ☐ Other:	WQ Type	☐ Single ☐ Profile ☐ Composite ☐ Other:
Sonde Method	☐ Grab ☐ Sample Tube ☐ Bucket	Lab Water Method	☑ Grab ☐ Sample Tube ☐ Bucket

Flag	Physicochemical Parameters (for a Single Water Quality Sample)		Seasonal Water Level		Water Odors		Surface "Oils"		Turbidity	
	12.93	Temperature °C		Below Normal		Normal	✓	None		Clear
	6.48	pH (std. Units)		Normal		Sewage (Not Septic)		Flecks		Slightly Turbid
	10.90	Dissolved Oxygen (mg/L)	✓	Above Normal		Petroleum		Sheen	✓	Moderately Turbid
	.710	Conductivity (µmhos/cm)		Flooding		Chemical		Globs		Highly Turbid
	Sonde I.D. #: Q		Notes:			Anaerobic (septic)		Slick	Water color: Clear/white from seep	
	If any problems occur with the Water Meter or any readings are suspect, record notes in the space to the right.				✓	Other: Metal				
					Foam/Suds (Rate 0-4 or NR)	0				

ABOVE: Record readings in box for corresponding physicochemical parameter. Insert a √ in the box for other categories.

Precipitation Status and History

Current		Past 24 Hours (If Known)	2 days after Hurricane Sandy	Major Rain Event in past week?	☑ Yes ☐ No

If it is raining or has rained recently, which of the following best describes the peak runoff (flush) condition of the stream at the site when water samples were collected? If the runoff condition is in response to snowmelt, please indicate as such above.

N/A		< 1 Hour		1 to 4 Hours		4 to 12 Hours		12 to 24 Hours	✓	1 to 2 Days		2 to 4 Days		4 to 7 Days		Unknown	

Is the stream level in the process of rising or falling at the time of visit? ☐ Baseflow ☑ Rising ☐ Falling

No Flow?: If a flow was scheduled for the site and not performed, then indicate if one of the following applies: ☐ Dry ☐ Low Flow ☐ Too Deep/Too Fast ☐ Instrument Failure ☐ Frozen/Ice ☐ Safety

Field Water Notes & Precipitation Comments:

In Stream below DC

pH 5.02
Tem 11.46C
DO 11.05
Con. 1.02

Upstream 3.36 pH

These data were moved to Separate forms - JES

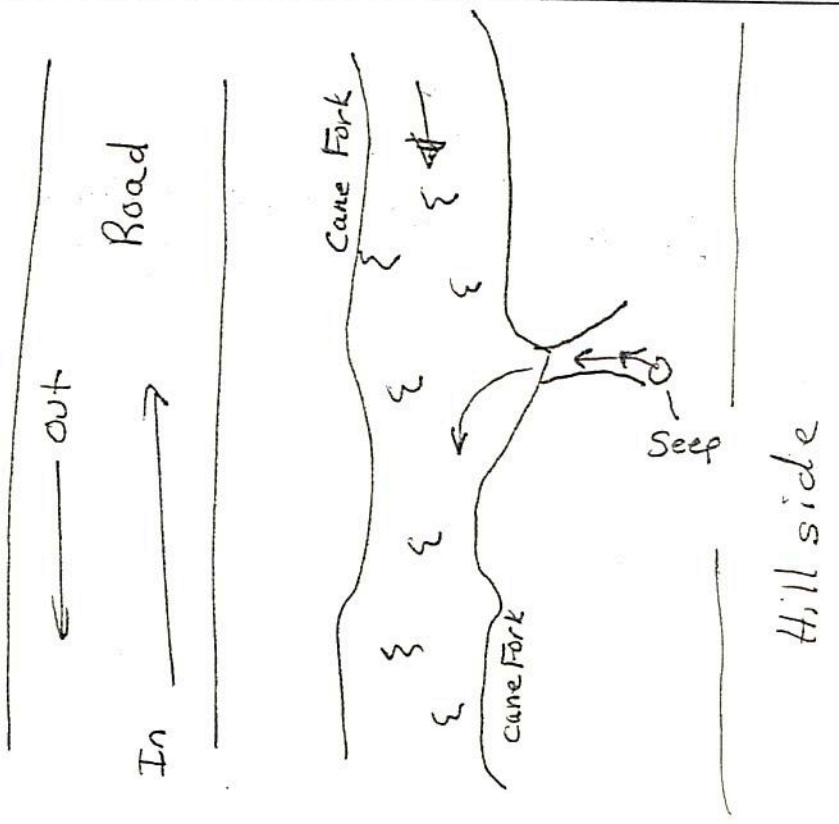
EXHIBIT 2

General WQ Sampling Form

623|6

----						Reviewers Initials	CLH		
Stream Name (with location)	Mine Seep to Cane Fork								
AN-Code	K-61-J-(0.55)-Seep	Date	11/30/12	Time	10:20	Geo TMB	Bio		
Basin	Upper Kanawha	County	Kanawha			Quad	Eskdale		
GPS Type	Previous	EPE				XY's Proofed		By	
Field Lat X-site	38 5 15.7 N			Field Lon X-site	81 26 11.5 W				
Corrected Lat	N			Corrected Lon	W				
Sampled	☑ Yes ☐ No	If not, why?	☐ No Access-Physical Barrier (☐ *Permanent* / ☐ *Temporary*) ☐ No Access-Landowner Denial (☐ *Verbal Denial* / ☐ *Posted* / ☐ *Fenced* / ☐ *Private*) ☐ Too Deep (☐ *Permanent-Not Wadeable* / ☐ *Temporary*) ☐ Dry ☐ Filled ☐ Impounded ☐ Other:						
Sample Type	☑ YSI ☐ Fecal ☑ AMD ☐ Nutrients ☐ Acid Rain ☐ Orthophosphate ☐ Flow ☐ Other:								
Duplicate type	☐ None ☐ Lab ☐ Fecal			Duplicate #		Was site moved?	☐ Yes ☐ No		
Explanation?									
Directions To Site	77 South Sharon Exit, left onto Cabin Creek Road to Eskdale turn left to Cane Fork Road. Seep is on your right BEFORE the bridge culvert.								

Sketch of Assessment Reach and Comments: Indicate North with (↑), indicate flow direction, indicate water sample (wq), indicate lat and long site with (X). Draw the sketch with a fine resolution to give a specific idea of the location of the sonde.



Notes		Single WQ Sample ID	✓ 65693

EXHIBIT 2

Reviewers Initials		FIELD WATER >>

WQ Sample Location	□ Mid-Stream □ Bank (□ Left □ Right) □ Thalweg (□ Left □ Middle □ Right) □ Left Channel □ Right Channel □ Other:	WQ Type	□ Single □ Profile □ Composite □ Other:

Sonde Method	□ Grab □ Sample Tube □ Bucket	Lab Water Method	□ Grab □ Sample Tube □ Bucket

Flag	Physicochemical Parameters (for a Single Water Quality Sample)		Seasonal Water Level		Water Odors		Surface "Oils"		Turbidity	
	13	Temperature °C	✓	Below Normal		Normal		None		Clear
	5.92	pH (std. Units)		Normal		Sewage (Not Septic)		Flecks	✓	Slightly Turbid
	10.53	Dissolved Oxygen (mg/L)		Above Normal		Petroleum		Sheen		Moderately Turbid
	800	Conductivity (µmhos/cm)		Flooding		Chemical		Globs		Highly Turbid
Sonde I.D. #:________			Notes:			Anaerobic (septic)		Slick	Water color:	
If any problems occur with the Water Meter or any readings are suspect, record notes in the space to the right.					✓	Other: Metal				
					Foam/Suds (Rate 0-4 or NR)					

ABOVE: Record readings in box for corresponding physicochemical parameter. Insert a √ in the box for other categories.

Precipitation Status and History

Current	No Rain	Past 24 Hours (If Known)		Major Rain Event in past week?	□ Yes □ No

If it is raining or has rained recently, which of the following best describes the peak runoff (flush) condition of the stream at the site when water samples were collected? If the runoff condition is in response to snowmelt, please indicate as such above.

N/A		< 1 Hour		1 to 4 Hours		4 to 12 Hours		12 to 24 Hours		1 to 2 Days		2 to 4 Days	✓	4 to 7 Days		Unknown	

Is the stream level in the process of rising or falling at the time of visit?	□ Baseflow	□ Rising	□ Falling

No Flow?: If a flow was scheduled for the site and not performed, then indicate if one of the following applies	□ Dry □ Low Flow □ Too Deep/Too Fast □ Instrument Failure □ Frozen/Ice □ Safety

Field Water Notes & Precipitation Comments:

≈ 7 sec to fill 5 gallon bucket = 42.76 gpm
≈ 0.0953cfs

EXHIBIT 2

Exhibit 3

Stream Name	Sample Date	Ancode	Latitude	Longitude	Parameter	Flag	Value	Units
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Al Dissolved		0.06	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Al Total		0.09	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Alkalinity		19	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Ca Total		49.3	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Chloride Total		14	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	DO		7.78	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Fe Dissolved		1.48	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Fe Total		1.67	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Hardness	calc.	226.88	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Hot Acidity	<	5	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	K Total		9	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Mg Total		25.2	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Mn Total		0.324	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Na Total		148	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	PH		5.4	S.U.
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Specific Conductance		1123	uS or umhos/cm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Sulfate		487	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	TDS		779	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	TSS	<	2	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Temperature		13.64	°C
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Al Dissolved		0.21	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Al Total		0.35	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Alkalinity		17	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Ca Total		61.2	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Chloride Total		14	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	DO		7.92	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Fe Dissolved		2.27	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Fe Total		2.54	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Hardness	calc.	275.94	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Hot Acidity	<	5	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	K Total		9	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Mg Total		29.9	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Mn Total		0.486	mg/L or ppm

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Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Na Total		194	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	PH		5.38	S.U.
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Specific Conductance		1442	uS or umhos/cm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	Sulfate		742	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	TDS		997	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.2}-Seep	38.08877778	-81.44141667	TSS	<	2	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Temperature		13.99	°C
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Al Dissolved	<	0.02	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Al Total		2.03	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Alkalinity		23	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Ca Total		68.9	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Chloride Total		7	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	DO		10.9	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Fe Dissolved		2.75	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Fe Total		4.45	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Hardness	calc.	330.59	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Hot Acidity	<	5	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	K Total		7.2	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Mg Total		38.5	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Mn Total		1.21	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Na Total		61.1	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	PH		6.48	S.U.
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Specific Conductance		710	uS or umhos/cm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Sulfate		413	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	TDS		645	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	TSS		15	mg/L or ppm
Mine Seep into Cane Fork	11/1/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Temperature		12.93	°C
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Al Dissolved		0.05	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Al Total		1.43	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Alkalinity		8	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Ca Total		69.3	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Chloride Total		7	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	DO		10.53	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Fe Dissolved		2.84	mg/L or ppm

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Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Fe Total		3.48	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Hardness	calc.	327.06	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Hot Acidity		6	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	K Total		6.9	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Mg Total		37.4	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Mn Total		1.41	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Na Total		67.1	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	PH		5.92	S.U.
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Specific Conductance		800	uS or umhos/cm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Sulfate		457	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	TDS		678	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	TSS		9	mg/L or ppm
Mine Seep into Cane Fork	11/30/2012	WVK-61-J-{0.55}-Seep	38.08769444	-81.43652778	Temperature		13	°C

EXHIBIT 3